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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/806,920 | 06/25/2001 | Johannes Hendrik Fehrsen | 0182.00002 | 7902 |

7590 01/02/2004
 Gerald E McGlynn III
 Bliss McGlynn
 2075 West Big Beaver Road Suite 600
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EXAMINER

GRAHAM, GARY K

| | |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

1744

DATE MAILED: 01/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | | |
|------------------------------|------------------------|--|---------------------------|--|
| Office Action Summary | Application No. | | Applicant(s) | |
| | 09/806,920 | | FEHRSEN, JOHANNES HENDRIK | |
| | Examiner | | Art Unit | |
| | Gary K Graham | | 1744 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 October 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Oishei et al '510.

The patent to Oishei discloses the invention as is claimed. Note figures 3 and 11 wherein the ends (40,65 respectively) of component or beam (24, 60) have been folded to act as stopping end formations for both holder (28) and blade (43). In figure 11, the ends have additionally been folded back upon themselves as is claimed in claim 4.

Claims 1-4 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Vassiliou '480.

The patent to Vassiliou discloses the invention as is claimed. Note figures 1 and 5 wherein the ends (4) of each beam (3) has been folded back upon itself as is claimed. Note figure 5 which shows the beam as curved. While claim 1 sets forth a "windscreen" wiper, such at most relates to the intended use of the wiper and imparts no particular structure to the wiper. The device of Vassiliou could be used for any function so desired.

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Claims 1-3 and 5-7 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Kohler '293

The patent to Kohler discloses the invention as is claimed. Note figure 1 wherein the ends (17,19) of various thickness and free form curved beam (10) are deformed and project beyond the end of the blade (22).

With respect to claim 3, defining that the deformation is a result of folding appears to relate the manner or method of manufacture and does not act to define over the structure of Kohler.

Response to Arguments

Applicant's arguments filed 6 October 2003 have been fully considered but they are not deemed persuasive. Applicant's arguments with respect to the rejection of claims 1-4 by Oishei are noted but not persuasive. Applicant argues that Oishei discloses a "tournament style" windshield wiper and does not disclose a "unitary elongated curved beam". However, whether or not Oishei discloses a "tournament style" windshield wiper does not prohibit the disclosed subject matter from reading on the claims. Oishei discloses all of the structure that is claimed. It appears the member (60) of Oishei can fairly be considered a beam, as far as claimed and in-so-far as applicant's component (12) can be considered a beam. The member (60) is an elongated horizontal structural component that supports the wiper blade (43) both vertically and horizontally. The beam

of Oishei acts to support the rubber blade (43) via contact points (30,33,35,37) of the support levers (50,51). As stated above, the beam (60, figs. 10 and 11) of Oishei is a curved, elongated, unitary beam that has a rubber blade (43) mounted thereto. The ends of the beam are folded over and back upon themselves to define ends (68) and lower prongs (66,67). Applicant also argues that the end formation does not project beyond an end portion of the rubber blade. Such is not persuasive. Applicant's attention is directed to figure 3, wherein an exemplary end view of the assembly of Oishei clearly shows the end (40) extending not only past the inner channel (28), but also past the rubber blade (43). The support beam (60) must mount in similar manner.

Applicant's arguments with respect to the rejection by Vassiliou are noted but not persuasive. Applicant argues that Vassiliou discloses a flexible squeegee that is employed in stencil screen printing or silk screen printing operations. While such may be true, such does not prohibit the wiper of Vassiliou from meeting the claims. As set forth above, setting forth the wiper as a "windshield" wiper does not impart any particular structure to the wiper. Such at most relates to the intended use of the device, which is not of patentable significance. Applicant also argues that Vassiliou does not disclose the end formations comprising deformed end portions that project beyond an end portion of the rubber blade. However, as can be seen in figure 4, the end formations (4,5) are deformed and do extend longitudinally "past" the end of the blade rubber.

Applicant's arguments with respect to the rejection by Kohler are noted but not persuasive. Applicant argues that the end portions of Kohler are formed by molding and not by deforming (folding). However, Kohler does not specifically state how the end portions are manufactured. Such end portions could just have easily been deformed after molding of the main body. In any event, the structure of the end portions is as claimed in that it is deformed with respect to the beam and projects beyond an end portion of the rubber blade. Whether such portions are formed by molding or folding relates to the method of manufacture of the end portions, and such is not of patentable significance in the product claims. It does not matter how the end portions of Kohler are made, just so long as they are present. Applicant's discussion of the film hinge is noted, but such does not appear to prohibit Kohler from reading on the claims.

Applicant's definition of beam set forth in the arguments is noted. It appears that all of the applied references meet such a definition. It should be pointed out that there does not appear to be any requirement that beams are larger in one dimension than another. Note that such a relationship is not in the claims. Further, the beam of Oishei is comprised of a body with one dimension large compared with the other dimension. Such beam carries lateral loads (note that the sweeping motion back and forth during wiping will create such lateral loads) with respect to the length thereof. While applicant adds that lateral loads are perpendicular to the large dimension, such does not appear accurate. It appears that the lateral loads are with respect to the length of the beam. It

appears that loads perpendicular to the large dimension would stress the beam in its weaker, thinner orientation. Clarification is requested.

While applicant sets forth that the channel of Oishei serves as a casing and does not itself play any part in the application of transverse force, such is not persuasive. The "casing" of Oishei is a structural member that transmits force from members (50,51) to the rubber blade during wiping in both a vertical direction during application of arm pressure and in a horizontal direction during sweeping. Thus, the "casing" acts as a beam, at least as far as claimed.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary K Graham whose telephone number is 571-272-1274. The examiner can normally be reached on Tuesday to Friday (6:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Warden can be reached on 571-272-1281. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

A handwritten signature in black ink, appearing to read 'GK Graham', with a stylized flourish at the end.

Gary K Graham
Primary Examiner
Art Unit 1744

GKG
22 December 2003